

E-FILED - 9/16/10

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ABEL P. REYES,

No. C 10-1838 RMW (PR)

Petitioner,

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL; ORDER
GRANTING PETITIONER'S MOTION
FOR EXTENSION OF TIME TO FILE
TRAVERSE

v.

WARDEN HEADPASS,

Respondent.

/ (Docket Nos. 15, 16, 22)

Petitioner, a California state prisoner, filed a pro se petition for a writ of habeas corpus. Before the court is petitioner's motion for appointment of counsel and extension of time to file his traverse.

Petitioner requests appointment of counsel because he is indigent and cannot afford counsel. However, the Sixth Amendment's right to counsel does not apply in habeas corpus actions. Knaubert v. Goldsmith, 791 F.2d 722, 728 (9th Cir. 1986). While 18 U.S. C. § 3006A(a)(2)(B) authorizes a district court to appoint counsel to represent a habeas petitioner if "the court determines that the interests of justice so require," the courts have made appointment of counsel the exception rather than the rule. Appointment is mandatory only when the circumstances of a particular case indicate that appointed counsel is necessary

1 to prevent due process violations. See Chaney v. Lewis, 801 F.2d 1191, 1196 (9th Cir.
2 1986).

3 Petitioner has thus far been able to adequately present his claims for relief.
4 Respondent has produced the state record, which appears to include petitioner's state
5 appellate briefs as prepared by counsel. No evidentiary hearing appears necessary in this
6 case, nor are any other extraordinary circumstances apparent. Accordingly, the court
7 concludes that appointment of counsel is not necessary at this time. Petitioner's motion for
8 appointment of counsel (docket no. 15) is DENIED without prejudice.

9 Petitioner's application for extension of time in which to file his traverse (docket no.
10 16) is GRANTED. The motion is deemed filed. Petitioner shall file his traverse on or before
11 **thirty (30) days** from the date this order is signed.

12 IT IS SO ORDERED.

13 DATED: 9/16/10


RONALD M. WHYTE
United States District Judge

United States District Court
For the Northern District of California